IN THE

Supreme Court of the United States

OCTOBER TERM, 1965

No. 795

THOMAS EWING PARKS, *Petitioner,*

v.

UNITED STATES OF AMERICA, *Respondent.*

REPLY BRIEF FOR PETITIONER

Deprivation of Fair Trial by Denial of Severance

Both the Government (Opp. 25-26) and the Court below (Hoffa Pet. App. 34-35) justify the joinder of petitioner with the defendants in other counts because the alleged endeavors in addition to involving one central figure were "similar in form and purpose" and "committed within the same general period of time and in the same location." By this attempt at a slender extension of the basis for joinder from that

asserted and rejected in *Kotteakos* v. *United States,* 328 U.S. 773, where "the only nexus" was the central figure, the Government has raised a question which cries for review by this Court.

Deprivation of Fair Trial by Destruction of F.B.I. Notes

The Government's reliance (Opp. 45-46) upon *Killian* v. *United States,* 368 U.S. 231, is misplaced. *Killian* dealt with an agent's notes of a witness' expenses "made only for the purpose of transferring the data thereon to the receipts." Id, 242. Here, the agent took a shorthand,[1] substantially verbatim statement[2] from the witness. This was the statement which was destroyed between the time the witness was subpoenaed and his appearance before the Grand Jury. It is hardly necessary to spell out the value of such a statement to the defense when the statement contradicts not only the witness' trial testimony but the Government's theory of the case.

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[1] IV D.A. 1998a.

[2] II D.A. 785a.

Respectfully submitted,

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